IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6091 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

RABARI VIRABHAI LAKHMANBHAI

Versus

MAMLATDAR

Appearance:

MR TUSHAR MEHTA for the Petitioner.

Mr. L.R.Pujari, ASSTT. GOVERNMENT PLEADER for the Respondent.

CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 18/10/2001

ORAL JUDGEMENT

By means of this petition, the petitioner has sought for issuing caste certificate in the name of the petitioner stating that the petitioner belongs to

scheduled tribe and on the basis of the material produced by the petitioner. The petitioner had applied before the respondent authority for issuing caste certificate, but that application has been rejected during the pendenhcy of this petition vide order dated 25th July, 2001 on the ground that the petitioner has not produced any material or evidence to show that he belongs to Rabari community and was residing at a particular place at the relevant time. The learned counsel for the petitioner has pointed out that the petitioner had filed the application alongwith Maswadi receipt in the name of his father for the years 1948, 1952 and 1970 as well other documents besides Vigat Darshak card dated 13th June, 1994 issued in the name of the petitioner. He also pointed out the decision of the Division Bench of this Court dated 31.8.2000 rendered in LPA No.1670 of 1990 wherein this Court has directed that in case the Vigat Darshak card is produced before the concerned authority and the Mamlatdar, they may proceed to decide the application of the candidates claiming to be treated as members of Scheduled Tribes and in taking up such exercise, they may consider such Vigat Darshak card as a relevant material and the entries made therein to be correct unless there is any ground or material to disbelieve the same and find those entries to be wrong or false and each case has to be decided on its own facts and applicant will be under an obligation to furnish the necessary material, as may be required, besides the Vigat Darshak card itself. On the basis of these directions of this Court, the learned counsel for the petitioner submitted that the order passed by the respondent Mamlatdar is illegal and not sustainable in the eye of law. Moreover, the Comittee headed by the Mamlatdar has erroneously held that the petitioner has not filed any material or evidence in respect of the issue for decision.

2. Considering the facts and circumstances of the case, this petition deserves to be allowede and accordingly allowed. The order dated 25.7.2001 passed by the respondent Mamlatdar, Talala, Dist: Junagadh is hereby quashed and set aside. The petitioner is directed to appear before the respondent Mamlatdar. The respondent Mamlatdar shall decide the application afresh in accordance with law, after giving a reasonable opportunity of hearing to the petitioner and keeping in mind the aforesaid judgment of the Division Bench of this Court, within a period of two weeks from the date of presentation of the certified copy of this order, alongwith another copy of the application and any other material or documents in support of that application. Rule is made absolute accordingly with no order as to

costs. Direct service is permitted.

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